

# STEPTOE & JOHNSON LLP

ATTORNEYS AT LAW

1330 CONNECTICUT AVENUE, N.W.  
WASHINGTON, D.C. 20036-1795

PHOENIX, ARIZONA  
TWO RENAISSANCE SQUARE

TELEPHONE: (602) 257-5200  
FACSIMILE: (602) 257-5299

BRENT H. WEINGARDT  
(202) 429-6753

(202) 429-3000  
FACSIMILE: (202) 429-3902  
TELEX: 89-2503

STEPTOE & JOHNSON INTERNATIONAL  
AFFILIATE IN MOSCOW, RUSSIA

TELEPHONE: (011-7-501) 258-5250  
FACSIMILE: (011-7-501) 258-5251

EX PARTE OR LATE FILED

January 17, 1997

RECEIVED

JAN 17 1997

Michele Farquhar  
Chief, Wireless Telecommunications Bureau  
Federal Communications Commission  
2025 M Street, Northwest  
Washington, D.C. 20554

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF SECRETARY

Re: Restrictions on LMDS Use of the 29.1-29.25 GHz Band  
(CC Docket 92-297)

Dear Ms. Farquhar:

Motorola Satellite Communications, Inc. ("Motorola") is writing to ask your assistance in ensuring that LMDS bidders and licensees are made fully aware of the significant restrictions on their use of the 29.1-29.25 GHz band. Motorola believes that the Commission will avoid possible public misinformation or confusion if the prohibitions on LMDS subscriber-to-hub transmissions, as well as the secondary status of LMDS operations in designated NGSO MSS feeder link protection zones, are reiterated in the upcoming LMDS Second Report and Order now under consideration by the Commission. Perhaps more importantly, Motorola hopes that these restrictions will prominently appear in any LMDS auction bidding guides or other auction materials prepared by the Commission.

As you are aware, as part of the carefully crafted sharing arrangements in the 28 GHz proceeding, both the LMDS and MSS communities made significant concessions on their use of the 29.1-29.25 GHz band. While these concessions are accurately incorporated in the First Report and Order, Motorola is concerned that many potential bidders will be unaware of the explicit restrictions set forth in the Order. The affected MSS licensees consist only of Motorola and TRW, two large companies that are well aware of the special requirements for operations in this band. However, there will be literally hundreds of large and small companies bidding for LMDS licenses. The vast majority of these companies clearly did not participate in the creation of these restrictions on use of the band and will not necessarily know about them.

No. of Copies rec'd 2  
List ABCDE

In particular, all new LMDS licensees will be subject to the prohibition on subscriber-to-hub communications in the 29.1-29.25 GHz band.<sup>1/</sup> To the best of Motorola's knowledge, this would be the first time that an auction was used to assign spectrum with such a significant limitation on its use. To avoid any claims of lack of notice, Motorola urges the Commission to prominently note the limitations of this allocation in all materials prepared for potential LMDS operators.

In addition, LMDS licensees in up to ten metropolitan statistical areas (MSAs) will operate on a secondary status under which they will be required to accept interference to their hub-to-subscriber operations.<sup>2/</sup> Under the Commission's structure for selection of these MSAs, it is not clear how LMDS bidders will learn of the secondary status of LMDS in these MSA's.<sup>3/</sup> Therefore, it is imperative that these bidders also be on notice as to the potential for constrained operations in the spectrum on which they are bidding.

Motorola wishes to stress that it fully supports the Commission's effort to assign LMDS operators up to 1300 MHz of spectrum and is not seeking any changes to the sharing arrangements at 29.1-29.25 GHz between LMDS and NGSO MSS earth stations. Motorola's sole concern here is that these LMDS operators be made fully aware of the limitations on their use of the spectrum in accordance with the spectrum sharing plan already adopted by the Commission.

Motorola believes that the Commission can greatly assist these prospective LMDS operators in performing their "due diligence" for LMDS auctions if LMDS subscriber-to-hub restrictions and the potential secondary status of certain MSAs are fully disclosed in the LMDS Second Report and Order and all Commission LMDS auction materials.

---

<sup>1/</sup> 47 C.F.R. §101.133(d). See Amendment of the Rules to Establish Rules and Policies for Local Multipoint Distribution Service, First Report and Order and Fourth Notice of Proposed Rulemaking, 3 CR 857 ¶ 37, 71 (1996) ("First Report").

<sup>2/</sup> 47 C.F.R. § 25.257 and 101.147(x); First Report at ¶¶ 67-71.

<sup>3/</sup> See 47 C.F.R. § 101.147(x)(2).

Michele Farquhar  
January 17, 1997  
Page 3

Again, Motorola believes these small steps will alleviate misinformation and confusion as the Commission continues with its LMDS licensing process.<sup>4/</sup>

Sincerely,

A handwritten signature in black ink, appearing to read "Brent Weingardt", with a large, stylized flourish at the end.

Brent Weingardt  
Counsel for  
Motorola Satellite Communications, Inc.

cc: Gerald Vaughan  
Kathleen O'Brien Ham  
Amy Zoslov  
David Furth  
Stephen Markendorff  
Jay Whaley  
Don Gips  
Tom Tycz  
Karl Kensinger  
Fern Jarmulnek  
Rudy Baca  
Julius Genachowski  
Suzanne Toller  
David R. Siddall

---

<sup>4/</sup> Motorola is also submitting this correspondence to the FCC Secretary for inclusion in CC Docket 92-297.